

SENATE BILL 2742

By Burchett

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17 and Title 68, relative to prohibition of smoking in restaurants serving or employing minors.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, is amended by adding the following language as a new, appropriately designated part thereto:

§ 39-17-1801.

As used in this part, unless the context otherwise requires:

(1) "Bar" means an establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises, and in which the serving of food is only incidental to the consumption of those beverages, including, but not limited to, taverns, nightclubs, cocktail lounges, and cabarets;

(2) "Employee" means an individual who is employed by a business in consideration for direct or indirect monetary wages or profit;

(3) "Employer" means an individual or a business that employs one (1) or more individuals;

(4) "Local governing authority" means a county or municipal corporation of the state;

(5) "Restaurant" means an eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands, and private and public school cafeterias, which gives or offers for sale food to the public, guests, or employees, as well as kitchens and catering facilities in which food is prepared on the premises for serving elsewhere. "Restaurant" includes a bar area within any restaurant; and

(6) "Smoking" means inhaling, exhaling, burning, or carrying any lighted tobacco product including cigarettes, cigars, and pipe tobacco.

§ 39-17-1802.

Except as otherwise specifically authorized in § 39-17-1804, smoking is prohibited in all restaurants that permit access to persons under the age of eighteen (18) or employ persons under the age of eighteen (18). Any such restaurant shall post signage which conforms to the requirements of § 39-17-1803 (a).

§ 39-17-1803.

(a) "No Smoking" signs, or the international "No Smoking" symbol consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, may be clearly and conspicuously posted by the owner, operator, manager, or other person in control of any establishment where smoking is prohibited by this part.

(b) All ashtrays shall be removed from any area where smoking is prohibited by this part by the owner, operator, manager, or other person in control of the area, unless such ashtray is permanently affixed to an existing structure.

§ 39-17-1804.

(a) Notwithstanding any other provision of this part, the following bars and restaurants shall be exempt from the provisions of this part as follows:

(1) All bars and restaurants to which access is denied to any person under the age of eighteen (18) and that do not employ any individual under the age of eighteen (18); and

(2) Private rooms in restaurants and bars if such rooms are enclosed and have an air handling system independent from the main air handling system that serves all other areas of the building and all air within the private room is exhausted directly to the outside by an exhaust fan of sufficient size.

(b) In order to qualify for exempt status under subsection (a), any area described in subsection (a) shall post conspicuously at every entrance a sign indicating that smoking is permitted.

§ 39-17-1805.

The department of health and the agency designated by each local governing authority in this state may engage in a continuing program to explain and clarify the purposes and requirements of this part to citizens affected by it and to guide owners, operators, and managers in their compliance with it. The program may include publication of a brochure for affected businesses and individuals explaining the provisions of this part.

§ 39-17-1806.

The department of health and the county boards of health and their duly authorized agents are authorized and empowered to enforce compliance with this part and the rules and regulations adopted and promulgated under this part and, in connection therewith, to enter upon and inspect the premises of any restaurant at any reasonable time and in a reasonable manner, as provided in title 68, chapter 14.

§ 39-17-1807.

This part shall be cumulative to, and shall not prohibit the enactment of, any other general or local laws, rules, and regulations of state or local governing authorities or local ordinances prohibiting smoking which are more restrictive than this part or are not in direct conflict with this part.

§ 39-17-1808.

A knowing violation of this part is a Class A misdemeanor punishable by fine only.

§ 39-17-1809.

(a) This part shall not be construed to permit smoking where it is otherwise restricted by other applicable laws.

(b) Nothing in this part shall be construed as to repeal the provisions of title 39, chapter 17, part 16.

(c) This part shall be liberally construed so as to further its purposes.

SECTION 3. This act shall take effect upon becoming law only for the purpose of promulgating rules and regulations; for all other purposes, the act shall take effect on July 1, 2006, the public welfare requiring it.